

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

February 15, 2000

Opinion No. 00-024

Franklin Special School District - Avoiding County Tax for Bonds for School Purposes

QUESTION

If a county issues general debt service bonds for financing elementary and middle schools only, may a special school district operating within that county refuse to participate in the division of funds generated by said bonds and thereby avoid the tax from said bonds, within the boundaries of the special school district?

OPINION

No. Even if the special school district waives its pro rata share of general debt service bonds issued for school purposes, the special school district cannot avoid the county tax.

ANALYSIS

As this Office stated in its recent opinion,¹ the county has the authority to tax all property within its boundaries, including property within the special school district. Tenn. Code Ann. §9-21-107(7); §49-2-101(5); §49-3-1005(a) (1999 Supp.). When levying a tax sufficient to pay off bonded indebtedness, a county, in its discretion, may choose to tax only property outside the special school district's boundaries. If it does so, the county does not have to share the school bond proceeds with the special school district. Tenn. Code Ann. §49-3-1005(b) (1999 Supp.).

Thus, the county has the discretion not to tax the property within the special school district. We can find no authority, however, that would entitle a special school district to exempt itself from a county imposed tax. Therefore, refusing² to participate in the division of bond funds will not mean that the special school district can avoid the county tax.

¹ Op. Tenn. Atty. Gen. 00-004 (January 6, 2000).

² The governing body of a special school district, by a regularly adopted resolution, may waive its rights to all or part of its pro rata share and return the funds to the county trustee. Tenn Code Ann. § 9-21-129(b) and § 49-3-1003(c)(2).

This opinion is not intended to address or affect any particular bond issue.

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